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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

Office of Chief Counsel
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March 3, 1994

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REGIONAL COUNSEL
EPA REGION III, PHILADELPHIA, PA

RE: Tonolli Corporation NPL Site

Dear Lydia:

Thank you again for meeting with PADER on February 8, 1994. The Commonwealth is hopeful that we can work together to achieve our common goal of cleanup of the Tonolli Corporation Site. Thank you also for your letter of February 16, 1994, responding to the Commonwealth's inquiry regarding PADER's participation in the modification of the remedy selected to address the concerns raised by the Commonwealth in the October 8, 1992 nonconcurrency letter and comments on the proposed Consent Decree.

PADER understands that EPA would like to address the concerns raised by the Commonwealth of Pennsylvania in an ESD. If EPA proceeds in this fashion, it should be aware that the Commonwealth reserves all of its rights under CERCLA and the NCP. Further, if EPA proceeds to address the Department's concerns in an ESD, PADER requests that its participation be on the administrative record and requests EPA to recognize PADER's rights to participate in the remedy selection process under CERCLA Section 121, regarding the certification of ARARs. Additionally, PADER requests that it be included in all discussions regarding the re-negotiation of the Consent Decree with the defendants.

As you know, PADER believes the remedy selected does not comply with CERCLA and the NCP. It is not clear to PADER that in fact an ESD is the proper mechanism for addressing the Department's fundamental concerns with the remedy selected for the Tonolli Corporation NPL site. It is likewise unclear to the Commonwealth, particularly without the benefit of the technical details of such proposals, that the engineering fixes proposed at the February 8, 1994 meeting are feasible, cost effective or,

most importantly, protective of human health and the environment. Therefore, EPA should be aware that the Commonwealth's nonconcurrency with the October 1, 1992 ROD and the comments submitted by PADER on December 13, 1993 on the proposed Consent Decree remain in full force and effect.

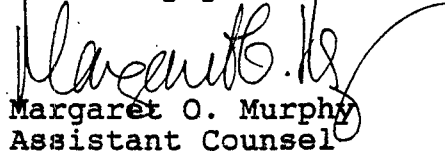
If, after evaluation of the changes to the remedy, PADER is persuaded that the changes will adequately protect human health and the environment, EPA should be aware that PADER will still require that the ARARs issues it has raised be addressed and that inter alia, EPA recognize the residual waste regulations and the hazardous waste regulation design requirements as ARARs for the Tonolli Corporation NPL site.

In other cases where EPA has convinced the Commonwealth that the remedy selected is protective of human health and the environment and a waiver of state ARARs is justified under CERCLA, PADER has concurred in the waiver of ARARs. It is conceivable that in this case, that if EPA so persuades the Commonwealth that the modified remedy is protective and that the waiver of state ARARs is justified under CERCLA, PADER could agree that a waiver of the ARARs we have identified is appropriate.

Finally, the Department requests that the 10 and 5 day time frames EPA has proposed for PADER's review of a draft ESD and re-drafted ESD be expanded to 20 and 10 days respectively.

Again, PADER welcomes the opportunity to work together on these issues and looks forward to hearing from you. Please do not hesitate to contact me at the above number if you have any questions or want to discuss this matter.

Sincerely yours,


Margaret O. Murphy
Assistant Counsel

cc: P. Karmel, Esq.
G. Olenick
P. Brierre, Esq.

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